Commission Implementing Regulation (EU) 2020/2036 of 9 December 2020 amending Regulation (EU) No 965/2012 as regards the requirements for flight crew competence and training methods and postponing dates of application of certain measures in the context of the COVID-19 pandemic

COMMISSION IMPLEMENTING REGULATION (EU) 2020/2036

of 9 December 2020

amending Regulation (EU) No 965/2012 as regards the requirements for flight crew competence and training methods and postponing dates of application of certain measures in the context of the COVID-19 pandemic

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91[(1)], and in particular Article 31 thereof,

Whereas:

(1) Commission Regulation (EU) No 965/2012[(2)] lays down the requirements that aircraft operators need to comply with as regards the recurrent operational training and checking of their pilots.

(2) The European Plan for Aviation Safety adopted by the European Union Aviation Safety Agency ('the Agency') pursuant to Article 6 of Regulation (EU) 2018/1139, identified that it is of key importance for aviation personnel to have the right competencies and that training methods need to be adapted to ensure that the personnel is able to cope with the new emerging technologies and the increasing complexity of the aviation system.

(3) In 2013 the International Civil Aviation Organization (ICAO) published the 'Manual of evidence-based training' (Doc 9995 AN/497), which contains a competency framework ('core competencies') necessary to operate safely, effectively and efficiently in a commercial air transport environment and the corresponding descriptions and related behavioural indicators to asses those competencies. The evidence-based training ('EBT') competencies, encompass what was previously known in pilot training as technical and non-technical knowledge, skills and attitudes ('KSA').

(4) The objective of EBT is to improve safety and to enhance the competencies of flight crews to safely operate the aircraft in all flight regimes and to be able to identify and manage unexpected situations. The EBT concept is designed to maximise learning and limit formal checking.

(5) Commission Regulation (EU) No 965/2012 should therefore be amended in line with the ICAO Doc 9995 'Manual of evidence-based training' in order to introduce requirements on the provision of training, checking and assessment of the EBT programme, and to allow authorities to approve the baseline EBT, which replaces previous checks, i.e. the Operator Proficiency Check (OPC) and the Licence Proficiency Check (LPC). This will allow a single approach to recurrent training at the operator.

(6) The COVID-19 pandemic severely hampered the ability of Member States and the aviation industry to prepare for the application of a number of recently adopted Implementing Regulations in the field of aviation safety.

(7) Commission Regulation (EU) No 965/2012 requires that cockpit voice recorders (CVR with the capability of recording 25 hours) are installed and used as of 1 January 2021. To avoid disproportionate financial burden for aircraft operators and manufacturers of aeroplanes whose delivery to operators was scheduled before 1 January 2021 but subsequently disrupted by the COVID-19 pandemic, the application of that requirement should be postponed.

(8) The Agency has verified that the postponement of the application of the requirement referred to in recital 7 by a limited time is possible without having a detrimental effect on aviation safety.

(9) The Agency has prepared draft implementing rules and submitted them with Opinion No 08/2019[3] in accordance with points (b) and (c) of Article 75(2) and with Article 76(1) of Regulation (EU) 2018/1139.

(10) The measures provided for in this Regulation are in accordance with the opinion of the committee established in accordance with Article 127 of Regulation (EU) 2018/1139,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 965/2012

Annexes I, II and III to Regulation (EU) No 965/2012 are amended in accordance with the Annex to this Regulation.

Article 2

Date of entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 9 December 2020.

For the Commission

The President

Ursula VON DER LEYEN

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2020/2036. (See end of Document for details)*

ANNEX

Annexes I, II, and III to Commission Regulation (EU) No 965/2012 are amended as follows:

(1) Annex I is amended as follows:

The following definitions are inserted:

(23a) ‘competency’ means a dimension of human performance that is used to reliably predict successful performance on the job and which is manifested and observed through behaviours that mobilise the relevant knowledge, skills and attitudes to carry out activities or tasks under specified conditions;

(23b) ‘competency-based training’ means assessment and training programmes that are characterised by a performance orientation, emphasis on standards of performance and their measurement and the development of training to the specified performance standards;

(23c) ‘competency framework’ means a complete set of identified competencies that are developed, trained and assessed in the operator’s evidence-based training programme utilising scenarios that are relevant to operations and which is wide enough to prepare the pilot for both foreseen and unforeseen threats and errors;

(42d) ‘EBT module’ means a combination of sessions in a qualified flight simulation training device as part of the 3-year period of recurrent assessment and training;

(47a) ‘enrolment’ means the administrative action carried out by the operator where a pilot participates in the operator’s EBT programme;

(47b) ‘enrolled pilot’ means the pilot that participates in the EBT recurrent training programme;

(47c) ‘equivalency of approachesmeans all the approaches that place an additional demand on a proficient crew regardless of whether they are used or not in the EBT modules;

(47d) ‘equivalency of malfunctions’ means all the malfunctions that put a significant demand on a proficient crew regardless of whether they are used or not in the EBT modules;

(47e) ‘evaluation phase’ means one of the phases of an EBT modulewhich is a line-orientated flight scenario, representative of the operator’s environment during which there are one or more occurrences to evaluate key elements of the defined competency framework;

(47f) ‘evidence-based training (EBT)’ means assessment and training based on operational data that is characterised by developing and assessing the overall capability of a pilot across a range of competencies (competency framework) rather than by measuring the performance in individual events or manoeuvres;

(69b) 'in-seat instruction' means a technique used in the manoeuvres training phase or the scenario-based training phase, where the instructors can:

(a) provide simple instructions to one pilot; or

(b) perform predetermined exercises acting, in a pilot seat, as pilot flying (PF) or pilot monitoring (PM) for:

(1) the demonstration of techniques; and/or

(2) triggering the other pilot to intervene or interact;

(69c) 'instructor concordance'means the consistency or stability of scores between different EBT instructorswhich gives a score (or scores) of how much homogeneity, or consensus, there is in the ratings given by instructors (raters);

(72a) 'line-orientated flight scenario' means the assessment and training involving a realistic, 'real-time', full mission simulation of scenarios that are representative of line operations;

(76b) 'manoeuvres training phase' means a phase of an EBT module during which, according to aircraft generation, crews have time to practise and improve performance in largely psychomotor skill-based exercises by achieving a prescribed flight path or performing a prescribed event to a prescribed outcome;

(76c) 'mixed EBT programme' means an operator's recurrent training and checking programme as per ORO.FC.230, a portion of which is dedicated to the application of EBT but which does not replace proficiency checks as per Appendix 9 to Annex I (Part-FCL) to Regulation (EU) No 1178/2011;

(98a) 'proficient' means having demonstrated the necessary skills, knowledge and attitudes that are required to perform any defined tasks to the prescribed standard;

(105b) 'scenario-based training phase' means a phase of an EBT module which focuses on the development of competencies, whilst the pilot is trained to mitigate the most critical risks identified for the aircraft generation. It should include the management of specific operator's threats and errors in a real-time line-orientated environment;

(2) Annex II (Part-ARO) is amended as follows:

the following point ARO.OPS.226 is inserted:

ARO.OPS.226 Approval and oversight of evidence-based training programmes

(a) Where a competent authority grants an approval for EBT programmes, inspectors must receive qualification and training in EBT principles, application, approval processes and continuing oversight.